IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

MFA.No. 1252 of 2001(B)

O.P(MV).NO.3301/1993 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, IRINJALAKUDA.
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APPELLANTS/ PETITIONERS:
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1. **PUSHPAM, WIDOW OF CHERAKULAM JAYAPRAKASAN @ PRAKASAN, NANDIKKARA DESOM, PARAPPOKKARA VILLAGE, NANDIKKARA.P.O., MUKUNDAPURAM TALUK.**
2. **C.J. JINI, D/O. LATE CHERAKULAM JAYAPRAKASAN @ PRAKASAN, DO. DO.**
3. **C.J. SINI, D/O. DO. DO.**
4. **C.J. ANIL, S/O. DO. DO.**

BY ADV. SRI.P.V.BABY,
ADV. SRI.A.N.SANTHOSH.

RESPONDENTS/ RESPONDENTS:
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1. **M.A. ABOOBAKER, S/O. ALIYARU, MATTANAYIL HOUSE, MARAMPILLY.P.O., ALWAYE.**
2. **THE UNITED INDIA INSURANCE CO. LTD., COMMERCIAL CENTRE, ALWAYE.**

BY ADV. SRI.M.A.HAKIM SHAH.

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 10/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. Koshy & K.Hema, JJ.

M.F.A.No. 1252 of 2001

Dated this the 10th day of December, 2007

Judgment

Koshy,J.

Husband of the first appellant sustained fatal injuries on 12.11.1993. When he was riding his motor cycle through National Highway, a tempo van driven by the first respondent came in a rash and negligent manner and hit on the motor cycle. He was thrown out and succumbed to the fatal injuries on the same day at the Medical College Hospital, Thrissur. His wife and three minor children claimed Rs.6,00,000/- as compensation. Total compensation awarded was Rs.2,18,000/-. Only dispute is regarding the quantum of compensation as insurance as negligence aspect and coverage of insurance were found in favour of the appellants.

2. Deceased was aged 40 years at the time of accident. Wife was only aged only 33 years and children were aged between 17 and 30 at the time of the accident. It is the claim of the appellants that the deceased was conducting a country brick manufacturing unit and he was getting more than Rs.5,000/- per month. For proving the same, they relied on Ext.A8 income

certificate issued by the Tahsildar wherein it is stated that his yearly income is Rs.32,800/-. Ext.A10 is the receipt issued by the Secretary, Parappukkara Country Bricks Owners' Association to show that the deceased was the owner of a country brick manufacturing unit. Going by the income certificate issued by the Tahsildar itself, monthly income of the deceased is more than Rs.2,700/-. We are of the view that at least Rs.2,700/- should have been accepted as the monthly income. So, Rs.1,800/- can be fixed as the monthly contribution to the family. The tribunal has taken 15 as the multiplier taking guidance from the second schedule. We see no ground to interfere in the same. Therefore, compensation payable will be Rs.1800 x 12 x 15 = Rs.3,24,000/-. The tribunal has granted Rs.1,80,000/- towards loss of dependency. Therefore, appellants are entitled to get an additional amount of Rs.1,44,000/- towards loss of dependency. We are of the opinion that compensation granted under other heads are reasonable even though it was argued that compensation granted for consortium, love and affection etc. are very low. The additional compensation of Rs.1,44,000/- over and above the compensation awarded by the tribunal should be deposited by the second respondent insurance company with 7.5 % interest from the date of application till its

deposit. On deposit of the same, one-fourth of the amount can be withdrawn by the first appellant and another one-fourth can be withdrawn by the second appellant. Balance should be deposited in the name of third and fourth appellants in equal proportion enabling them to withdraw the same on attaining majority.

J.B.Koshy
Judge

K. Hema
Judge

vaa

J.B. KOSHY AND
K.HEMA,JJ.

M.F.A. No. 1252 of 2001

Judgment

Dated:10th December, 2007